



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

JAN 26 1994

Brian Smith
Environmental Program, MS 27
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Dear Mr. Smith

Over the past several months there have been an ever increasing number of verbal and written requests from Caltrans and/or local project proponent for EPA's participation in various transportation project meetings. Nearly all of these invitations have been tied, in some respect, to the NEPA/404 MOU. We appreciate your concerted efforts to keep us involved in the earliest stages of project development, however, the reality of our increasing workload coupled with staffing constraints, has, in some cases, limited our ability to respond in a timely manner, and at times we've simply had to decline early involvement. While this situation will soon resolve itself, I believe this is an opportune time to re-establish some basic NEPA/404 ground rules to help our agencies work together both more efficiently and effectively.

When the NEPA/404 MOU was implemented in 1993/94, we relied almost entirely on written requests for meetings, information exchange, and concurrences. This formalized system provided an excellent means of tracking our involvement in what has turned out to be a rather burdensome and complex process. Over time, requests for meetings, and in some cases, concurrences, became more and more informal as staff became familiar with the process and sought to implement as many process-related shortcuts as possible...without truly envisioning the potential procedural consequences. Unfortunately, the evolved informality has led to a process which now lacks adequate definition. Verbal (and written) invitations and requests for concurrence, for example, are sometimes sent to our Office of Federal Activities (the NEPA side) and sometimes sent to the various offices in our Water Division (the 404 side). At times more than one of the groups receives the same invitation without knowledge that the other has already responded. This results in quite a bit of confusion and potential duplication of efforts. I'd like to see this process flaw rectified, and offer the following set of recommendations:

For Meetings-

1. All requests for NEPA/404 meetings should be submitted in writing to David Farrel, Office of Federal Activities (CMD-2) or by email (Farrel.David@epamail.epa.gov). Requests should provide sufficient lead time for scheduling and establishing travel authorizations.

2. Such requests should include an agenda which clearly characterizes what is expected from our participation and the desired outcome of the meeting.
3. Written materials attached to the request must contain sufficient NEPA/404 - related information to enable our staff to prepare for, and actively participate in the meeting. **Most importantly, the materials must include an assessment of impacts to waters of the US including the area of jurisdiction and anticipated impacts to aquatic resources.** This packet of information is critical in determining the extent of our Agency's involvement.

For Concurrences-

1. Requests for NEPA/404 concurrence should be submitted in writing to David Farrel, Office of Federal Activities (CMD-2).
2. Such requests should clearly identify the stage of the NEPA/404 process and must contain the information noted in 3, above, along with other pertinent information determined by the actual stage of the process.

While this process may appear to be fairly rigid, I believe we must re-establish a straightforward procedural means of addressing, and effectively tracking, our current and increasing NEPA/404 workload. I ask that you relay these recommendations to your agency's offices throughout the State and ask that they be implemented immediately. Doing so will help us re-establish a more effective means of responding to your requests which will result in more timely, productive meetings and NEPA/404 process decisionmaking. It would also be extremely helpful to us if a list of anticipated transportation projects could be provided on a quarterly basis. Such a list should also be sent to Mr. Farrel in our Federal Activities Office.

I would be pleased to discuss these recommendations with you, at your convenience. Please feel free to contact me at 415-744-1566, or David Farrel at 415-744-1584.

Sincerely,



Deanna M. Wieman, Deputy Director
Cross Media Division

cc: Dennis Scovill, FHWA
Robert Tally, FHWA
Glenn Clinton, FHWA
FTA
Daryl James, NDOT

ADOT

HDOT

COE

FWS

NMFS

Strauss, WTR-1

Woo, WTR-5

Vendlinski, WTR-8